

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

MI Rehab Solutions LLC
Petitioner

File No. 21-1755

v

Frankenmuth Mutual Insurance Company
Respondent

Issued and entered
this 26th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 22, 2021, MI Rehab Solutions LLC] (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Frankenmuth Mutual Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on August 24, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on December 8, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 8, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 28, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 18, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatment rendered on June 16, 2021, and related travel costs. The Current Procedural Terminology (CPT) codes at issue include 97110, 97116, 99358, and 99082, which are described as therapeutic exercise, gait training, prolonged service time, and unusual travel, respectively. In its *Explanation of Review* letter, the Respondent referenced Official Disability Guidelines (ODG) and stated that the treatment was not medically necessary and “extended above the usual range of utilization” based on medically accepted standards. The Respondent noted that the injured person started physical therapy in 2020 and has experienced “ongoing ankle/foot pain” despite the rendered treatment.

With its appeal request, the Petitioner submitted medical documentation which identified the injured person’s diagnoses as left foot fracture, left trimalleolar ankle fracture, and left hindfoot fusion in relation to a fall while entering his vehicle in February of 2020. The Petitioner’s supporting documentation indicated that the injured person had a complex medical history and that he was “disabled from work since February 2014 due to medical history.” The Petitioner documented in an initial evaluation from June of 2020 that a physical therapy care plan for the injured person included addressing problems with weakness, deconditioning, functional mobility, caregiver training for mobility and home exercise program (HEP), and pain management. The injured person’s care plan was set for 2-4 times per week for 12-16 weeks. In addition, the Petitioner noted that the injured person received inpatient rehabilitation from late February to early March 2021 during which he sustained a left thigh injury, which caused a “significant” decline in his functional independence and activity tolerance. The Petitioner’s request for an appeal further stated:

Ongoing services were recommended and prescribed, due to injuries sustained in [the motor vehicle accident (MVA)] and related impairments, along with multiple medical underlying medical conditions that were worsened/exacerbated by MVA. Throughout the course of treatment, [the injured person] demonstrated consistent progress toward established goals, with consistent participation as medically able...[The injured person] continues to demonstrate consistent progress/ motivation/participation and the potential to maximize progress toward prior level of function with increased independence/safety with functional tasks and mobility with skilled [physical therapy] services.

In its reply, the Respondent reaffirmed its position, referencing ODG guidelines in support, and stated that the injured person “has completed 68 physical therapy visits from 6/23/2020 to 6/16/2021.”

III. ANALYSIS

Director’s Review

Under MCL 500.3157a(5), a provider may appeal an insurer’s determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that

the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing physician who is board-certified in physical medicine and rehabilitation and is familiar with the medical management of patients with the injured person's condition. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Official Disability Guidelines regarding physical therapy for knee and leg conditions for its recommendation.

Based on the submitted documentation, the IRO reviewer noted that the injured person's medical conditions include "atrial fibrillation, cardiomyopathy, diabetes, neuropathy, bilateral shoulder issues, and bilateral knee replacements," in addition to the left foot and ankle fractures sustained in the MVA. The IRO reviewer explained that the injured person underwent left ankle and foot surgery and had toe-touch weightbearing restrictions for his left lower limb. Further, the IRO reviewer noted that the injured person's "course [of recovery] was complicated by an infection, sepsis, hypoxemia, and encephalopathy" and he was not discharged home until early June 2020. In addition, the IRO reviewer noted that the injured person received attendant care following discharge from an inpatient rehabilitation program on March 6, 2021 and resumed community-based rehabilitation shortly thereafter.

The IRO reviewer explained that ODG physical therapy guidelines recommend up to 48 physical therapy visits for a range of up to 16 weeks "to address gait abnormalities related to lower extremity conditions." The IRO reviewer stated that "the services in question were in excess of an appropriate number of visits for the injured person's conditions."

The IRO reviewer further stated:

[T]he injured person continued to undergo physical therapy with a focus on balance and walking but he was not making clinically significant progress ...The injured person's functional status was mildly fluctuating but largely unchanged relative to the fall and winter of 2020...[I]t was reported that the injured person's Berg Balance scale score had improved from 17 on 5/5/21 to 19 on 6/16/21, however, his score was 22 on 11/5/20 and in February 2021 his score was 29...The injured person was ambulating at times without an assistive device in February 2021 and as of 6/16/21, he remained unable to stand without a lift chair providing elevation...The injured person was ambulating short distances with a cane but remained at a high risk for falls...[T]he injured person had ongoing impairments and risk for falls as of mid-June

20201 but he had maximized the benefit he was going to derive from formal physical therapy.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments and related travel provided to the injured person on June 16, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent's determination dated August 24, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford